

REMARKS

The Office Action dated October 18, 2006 has been reviewed, and the comments of the U.S. Patent Office have been considered. Claims 1-5 and 11-17 have been canceled, claim 6 has been amended.

Claims 6-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Connell et al. (5,744,027) and for obviousness-type double patenting.

Objection to the Specification

The specification is amended to correct the failure to correctly specify the status of cross-referenced prior applications.

Claim Rejections Under 35 USC §102

Claim 6 was amended to correct a minor grammatical error and does not respond to the rejection on prior art grounds. Claims 6-10 were rejected over Connell. The Office Action points out the features of Connell which overlap with some of the limitations of the rejected claim. However, the limitations of claim 6:

the controller being selectively operable during the first and second cycles to operate the third pump assembly in a bolus mode, during which a volume of outgoing fluid is recirculated from the first compartment into the outgoing line to displace ingoing fluid from the second compartment while limiting removal of additional outgoing fluid by the blood treatment apparatus

are not mentioned in the Office Action and not found in Connell. In particular, Connell does not show a bolus mode as defined by claim 6 in the recitation above. As such, Applicants submit claim 6 was improperly rejected and correction is hereby solicited. Claims 7 to 10 contain the

limitations of claim 6 as well as additional limitations that are not found in Connell and therefore should also have not been rejected.

Applicants' failure to argue with particularity against the rejections of the dependent claims does not constitute an acquiescence to those rejections, but rather a recognition that those rejections are moot based on the remarks herein.

Rejections for Double Patenting

A terminal disclaimer is submitted to overcome the rejections of claims 6-10 for double patenting.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this Application in view of the foregoing amendments and remarks.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the undersigned to expedite prosecution of the application.

The Commissioner is hereby authorized by this paper to charge any fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-3840. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,



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